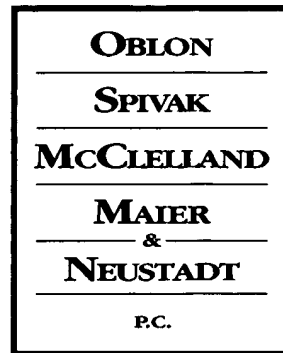




Docket No.: 204531US2S

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

ECKHARD H. KUESTERS  
(703) 413-3000  
EKUESTERS@OBLON.COM

RE: Application Serial No.: 09/803,104

Applicants: Akihito OGAWA, et al.

Filing Date: March 12, 2001

For: INFORMATION RECORDING MEDIUM WITH  
INDEX HEADER

Group Art Unit: 2653

Examiner: VUONG, B.

**RECEIVED**

JUL 06 2004

Technology Center 2600

SIR:

Attached hereto for filing are the following papers:

**PROVISIONAL ELECTION**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters

Registration No. 28,870

Customer Number

**22850**

(703) 413-3000 (phone)  
(703) 413-2220 (fax)

DOCKET NO: 204531US2S



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
AKIHITO OGAWA, ET AL. : EXAMINER: VUONG, B.  
SERIAL NO: 09/803,104 :  
FILED: MARCH 12, 2001 : GROUP ART UNIT: 2653  
FOR: INFORMATION RECORDING :  
MEDIUM WITH INDEX HEADER :

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PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated June 1, 2004, Applicants provisionally elect with traverse Group I, Claims 1-11, 16-19, 24-27, 32, 35 and 36 drawn to a disk structure, an apparatus and method for recording and/or reproducing information on a disk having plural recording layers, classified in class 369, subclass 94. Applicants reserve the right to file one or more divisional applications directed to the non-elected invention.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct inventions, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action identifies different search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may

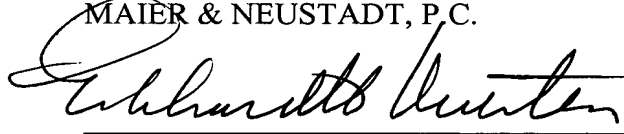
Application No. 09/803,104  
Reply to Office Action of June 1, 2004

be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-37 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/03)

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